

#### **401 KAR 4:300. Permit timetables for 401 KAR Chapter 4.**

RELATES TO: KRS 146.200-146.360, 151.140, 224.10-100, 224.10-220

STATUTORY AUTHORITY: KRS 146.270, 151.125, 224.10-100, 224.10-220

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-220 requires the Environmental and Public Protection Cabinet to prescribe timetables for the issuance of all permits by the cabinet, except those permits for which a timetable is set out by statute. This administrative regulation establishes timetables for permits that are required by 401 KAR Chapter 4, except those permits whose timetables are set out in KRS 146.290 and 151.260.

Section 1. Permit Timetables. The cabinet shall issue its final decision on a complete permit application within the review times specified in this section. A complete permit application shall contain all the administrative and technical information required by applicable statutes and administrative regulations.

(1)(a) Except as provided in Section 2 of this administrative regulation, within thirty (30) calendar days of initial receipt of an application for permits subject to subsections (2) and (4) of this section, the cabinet shall notify the applicant as to whether the application is administratively complete, or if not complete, of the deficiencies which make the application administratively incomplete. A determination that the application is administratively complete shall not mean that the application is complete in every detail, nor shall it mean that any aspect of the application is technically sufficient or approvable.

(b) If the application is determined to be administratively incomplete, the applicant shall correct identified deficiencies within thirty (30) calendar days of the date of notification. If the applicant does not correct the deficiencies within the time frame, the cabinet may return the application.

(c) After the notification that the application is administratively complete, if the cabinet determines that the application is technically deficient, the cabinet shall notify the applicant of deficiencies which make the application technically incomplete or unapprovable. The applicant shall correct the technical deficiencies within thirty (30) calendar days of the notification, or other time as agreed upon by the applicant and cabinet. If the technical deficiencies are not corrected within thirty (30) calendar days or the agreed upon time frame, the cabinet may deny the permit.

(2) For water withdrawal permits required by KRS 151.140, the review time shall be ninety (90) calendar days after receipt of an administratively complete permit application.

(3) For change of use permits and public hearings for a change of use permit, the review times shall be as specified in KRS 146.290.

(4) For utility right of way and other approvals required by KRS 146.290, the review time shall be sixty (60) calendar days after receipt of an administratively complete permit application.

Section 2. Timetable Exclusions. Time periods which shall not be included in the cabinet's consideration of its decision on an application subject to Section 1(2) or (4) of this administrative regulation shall include:

(1) Time waiting for the applicant to respond to a notice of deficiency;

(2) Time during which the permit, application, decision, or related matter is held in litigation, including but not limited to administrative hearings;

(3) Time during which an opportunity for public hearing or public comment period on a draft or proposed permit is given, and time during which a public hearing is scheduled;

(4) Time waiting for federal, state or local agencies to comment on the permit or to respond to written requests from the cabinet for additional information; and

(5) Other times as agreed to by the applicant and the cabinet.

Section 3. Timetable Extensions. (1) If two (2) or more permits for a facility, site, source, construction project, or other entity are required from the cabinet, the cabinet may coordinate the issuance of the permits, establishing different review and action times that shall be accomplished by the cabinet or applicant. If the permits are coordinated, the cabinet shall so notify the applicant and indicate the timetables under which the intermediate and final permit actions shall be accomplished. The established time frame for final action shall not exceed the last date for action that is provided for under applicable statutes and administrative regulations, based on all applications being considered and their filing dates.

(2) The applicant and the cabinet may agree that the time frames or other timetables specified in this administrative regulation may be extended.

Section 4. For permit applications submitted to the division prior to the effective date of this administrative regulation the review times shall be applied as if the application were submitted on the effective date of this administrative regulation. (19 Ky.R. 1941; Am. 2401; eff. 4-28-93.)